

THE
DOOME
OF
COWARDISZE
AND
TREACHERY

OR,
A Looking-Glasse for Cowardly
or Corrupt Governours, and Souldiers, who
through Pusillanimity or Bribery, betray their
Trusts, to the publick Prejudice.

Containing certaine Domestick Lawes, here-
before, lately made, and judgements given against such
Timorous and Treacherous persons; fit to be known in
these unhappy Times of Warre.

By William Prynne, Utter Barrester of Lincolnes-Inne.

DEVT. 20. 1. 2. 3. 4.

When thou goest out to Battell against thine Enemies, and fast Horses and Chariots, and a people more then thou,
be not afraid of them; for the Lord thy God is with thee, which brought thee up out of the Land of Egypt: and
it shall be when ye are come nigh unto the Battell, that the Priest shall approach and speak unto the people, &
shall say unto them, Have O Courage, you approach this day unto the battell against your Enemies; let not your
hearts faint, ye feare not, and doe not tremble; neither be ye terrified because of them; for the Lord your God is
he that goeth with you to fight for you, against your Enemies, to save you.

PSAL. 3. 6. PSAL. 27. 3.

I will not be afraid of ten thousands of people who have set themselves against me round about. The Lord is my
light and my salvation, whom shall I feare? The Lord is the strength of my life, of whom shall I be afraid?
Though an host should encamp against me, my heart shall not feare; though War should rise against me, in this
will I be confident.

LUKE. 17. 33. MAT. 16. 25.

Whoever shall seek to save his life (by cowardly and unworthy practices) shall lose it; and whosoever shall
lose his life (by adventuring in valour) shall preserve it.

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TO THE READER.

Reader, I presume the following pages need no Apology, for their seasonableness in times of War, or necessity in an Age of Timidity and Treachery. All men of valour will protest and joyn forces with me against Cowards, all persons of honour & sincerity, against Traytors, and Deceivers, (the only enemies here encountered;) especially in a publique War, undertaken, managed for no other end, but the defence of Religion, Lawes, Liberties, Justice, and bringing Delinquents, Traytors to their native Country, unto condigne punishments; In such a sacred warfare as this;

*Lucan. l.
30 de Bello
Civil.

*Nulla fides, pietasque viris qui castra sequuntur, is not onely a Paradox, but a Prodigy, yea an inexpressible impiety: which ought to admit no other Centurions, or Souldiers, but such as Cornelius is recorded to be, Acts 10. 1. 2. A devout man, and one who feared God with all his house; which gave much Almes to the people (instead of plundring them) and prayed to God alwayes; Or in one word, such as that royal magnanimous Generall and Captaine of Gods Host, King David, was; *A man after Gods own heart, who shall fulfill all his will. To

*Psal. 20.
Ag. 13.

such Marshall men as these (and I would to God all our Armies were wholly composed of no other) I know these lines will be very acceptable; no wayes displeasing. If any grow offended at them, I feare their indignation ariseth onely from, or will be an evidence of their guilt in some particulars here arraigned, condemned by the Law of Arms. If any complain of overmuch Brevity, let them know, that short Discourses are ever most sutable for men, for times of action. Souldiers who act much, can read but little. This induced mee to present thee with a Manuall only, in such a subject, which I could have amplified into a Volume: *Dictum sapienti sat est.* A few good presidents, are sufficient to inform, reform many persons, and abuses: which if these, through Gods blessings, shall effect, I have the accomplishment of my desire.

Farwell.

THE DOOME OF COWARDIZE and TREACHERY.



I was one part of that excellent Military Discipline which God himselfe prescribed unto his owne people when they went out to battell against their Enemies, *that the Officers should speak thus unto the people, (in nature of a publike Proclamation :) Dent. 20. 1. 8. What man is there that is fearfull and faint hearted? let him go & returne unto his house, lest his bretherens hearts faint (by his flight or Cowardize) as well as his heart.* In pursuance whereof; valiant (a) Gideon having

assembled an Army of thirty two thousand men, to fight against the Midianites, God (a) commanded him, to goe and proclaim in the Eares of the people, saying; *whosoever is fearfull and affraid; let him returne and depart earlie from Mount Gilead (where they were assembled:) whereupon there returned of the people twenty two thousand, and there remained only ten thousand; more then two parts of three, being pusillanimous Cowards; and therefore altogether unfit for martiall affaires, better dismissed then retained in such a service. (b) The like Proclamation, according to this Law, we finde made by that heroick Generall of the Jewes, Judas Maccabaeus. Cowardly, and timorous persons are. (c) no fit Souldiers to be employed in any temporall or spirituall Militia; and therefore by Gods own directions are so be cashiered out of both. It is therefore the duty of every person, who takes upon him the profession of a Souldier, but more especially, the Office of a Governour or Commander, (d) seriously to examine his own heart and spirit, whether he hath sufficient courage, valour, resolution (as well as skill or prudence) to execute, discharge, such a most generous calling, before he undertake it, that knowne speech of Chabrias being an experimentall verity. (e) That an Army of harts with a Lyon for their Leader, is more terrible then an Army of Lyons with an heere for their Commander; the Cowardise of the Generall being oft times the overthrow of the most valorous Army, and the timorousnesse, or covetousnesse of the Governour, the losse of the strongest City or Castle, to the intolerable dammage of those States or Princes who employ them in such military services.*

Hence in all ages, cowardly, mercenary treacherous Souldiers and Governours, who through feare or covetousnesse betray their trusts, have undergone most exemplary censures and punishments of an high nature, as well for their villainy

(1) Judges 7. 2. (2) Judges 7. 2. (3) Judges 7. 2. (4) Judges 7. 2. (5) Judges 7. 2. (6) Judges 7. 2. (7) Judges 7. 2. (8) Judges 7. 2. (9) Judges 7. 2. (10) Judges 7. 2. (11) Judges 7. 2. (12) Judges 7. 2. (13) Judges 7. 2. (14) Judges 7. 2. (15) Judges 7. 2. (16) Judges 7. 2. (17) Judges 7. 2. (18) Judges 7. 2. (19) Judges 7. 2. (20) Judges 7. 2. (21) Judges 7. 2. (22) Judges 7. 2. (23) Judges 7. 2. (24) Judges 7. 2. (25) Judges 7. 2. (26) Judges 7. 2. (27) Judges 7. 2. (28) Judges 7. 2. (29) Judges 7. 2. (30) Judges 7. 2. (31) Judges 7. 2. (32) Judges 7. 2. (33) Judges 7. 2. (34) Judges 7. 2. (35) Judges 7. 2. (36) Judges 7. 2. (37) Judges 7. 2. (38) Judges 7. 2. (39) Judges 7. 2. (40) Judges 7. 2. (41) Judges 7. 2. (42) Judges 7. 2. (43) Judges 7. 2. (44) Judges 7. 2. (45) Judges 7. 2. (46) Judges 7. 2. (47) Judges 7. 2. (48) Judges 7. 2. (49) Judges 7. 2. (50) Judges 7. 2. (51) Judges 7. 2. (52) Judges 7. 2. (53) Judges 7. 2. (54) Judges 7. 2. (55) Judges 7. 2. (56) Judges 7. 2. (57) Judges 7. 2. (58) Judges 7. 2. (59) Judges 7. 2. (60) Judges 7. 2. (61) Judges 7. 2. (62) Judges 7. 2. (63) Judges 7. 2. (64) Judges 7. 2. (65) Judges 7. 2. (66) Judges 7. 2. (67) Judges 7. 2. (68) Judges 7. 2. (69) Judges 7. 2. (70) Judges 7. 2. (71) Judges 7. 2. (72) Judges 7. 2. (73) Judges 7. 2. (74) Judges 7. 2. (75) Judges 7. 2. (76) Judges 7. 2. (77) Judges 7. 2. (78) Judges 7. 2. (79) Judges 7. 2. (80) Judges 7. 2. (81) Judges 7. 2. (82) Judges 7. 2. (83) Judges 7. 2. (84) Judges 7. 2. (85) Judges 7. 2. (86) Judges 7. 2. (87) Judges 7. 2. (88) Judges 7. 2. (89) Judges 7. 2. (90) Judges 7. 2. (91) Judges 7. 2. (92) Judges 7. 2. (93) Judges 7. 2. (94) Judges 7. 2. (95) Judges 7. 2. (96) Judges 7. 2. (97) Judges 7. 2. (98) Judges 7. 2. (99) Judges 7. 2. (100) Judges 7. 2.

imity as treachery, fit to be publickly knowne in these times of War, for the terror of such Delinquents, and better encouragement of all men of Armes, valorously and faithfully, to discharge the trusts they have taken upon them; even for feare of legall executions, where the advancement of their own honour and reputation, and publique safety will not engage them faithfully to discharge their duties.

(f) See Petri
Blesensis Epist.
60. The So-
veraigne power
of Parliaments
part 4. p. 34.
35. Henricus
Bocerus l. 1. de
Bello. c. 13. p.
49. 50.
(g) Lamberd
Arch. fol. 135.
De Heretochius.

Not to trouble you with any (f) *forraine Historis, Lawes or Customes of this nature*, I shall present you onely with some few domestick precedents; to which the industrious perusers of our Records and Annals, may accumulate many more.

By the (g) Lawes of King Edward the Confessor, *hee who fleeth from his Lord or fellow Souldier for feare of War, or death, in the conduct of the Honetock (or Capitaine) in any expedition by Sea or Land; let him lose all that is his, and his very life, and the Lord may lay hands on the land which he had formerly given to him. And he who shall be slaine in War before his Lord, be it in the Land, or elsewhere, let his relatives be pardoned, and his heires enjoy his Monie and Land without any diminution, and divide it among themselves.*

By the Statutes of 18. H. 6. c. 19. 7. H. 7. c. 13. 3. H. 8. c. 9. 2. E. 6. c. 4. & 5. P. 11. Mary. c. 23. 3. Eliz. c. 15. *It is made no lesse then felonie and death for any Souldiers, to depart from their Captaines, without their license under hand; for which many Souldiers have been condemned & executed, as you may read in Sir Edward Cooke, 6. Rep. f. 27. in the case of Souldiers. And before these Statutes Thomas Earle of Lancaster was (h) proclaimed a Traitor by the whole Armie in the 12. Year of King Edward the second, for departing in discontent from the Armie, at the Siege of Berwick, by means whereof it was not taken, and the Siege raised. If then deserters and forsakers onely of their Captaines and Military Service are punishable with death, then much more such Cowards and Fugitives, who (i) like the Children of Ephraim, bring armed and carrying bowes, turne their backs and flie in the daie of battell, or refuse to (k) stand in the gap, to make up the breach and repulse the Enemy.*

(h) Walsingham
Hist. p. 89.
Holinsbad,
Grafion. Stron:
Speeds Truffel,
in 12. R. 2.
(i) Pl. 78. 9.
(k) Enc. 22. 30.

For presidents of proceedings and judgements against Cowardly Souldiers, and Governours of Forts, take these ensuing instead of many. (l) Henry de Essex, Standard-bearer to the Kings of England by right of inheritance, was accused of high Treason in the second yeere, of King Henrie the second by Robert de Montford his neere kinsman, & vanquished by him in a Duell at Reading, for his Cowardlie abandoning and throwing down the Standard Royall in Northwales in the Battell against Prince Owen amidst the mountaines, & flying when sorely assaulted by the Welsh, whereby the Kings Armie was endangered to be Routed: whereupon though his life was pardoned, yet his lands were seised into the Kings hand, and he shorne and shorn up a Monke in the Abbie of Reading, where he died.

(l) Dan. p. 18.
Speed. p. 502.
Holin. 2. and
Stron. Art. 2. H.
24

The Case of
Gomerics and
Weslan.

'In the Parliament Rolls of 1. R. 2. Num. 38. 39. 40. I finde this notable record, which I shall transcribe at large. Item, whereas it was prayed by the Commons, that all those who have rendred or lost Castles or Townes through the verie default of the Captaines, might be put to answer it to this Parliament, and severely punished according to their desert, by award of the Lords and Barronage, to eschew the evill examples which they have given to others, who are Governours of Townes and Castles, it was commaunded to Sir Alexander de Buxhall Constable of the Tower of London, that he should cause to come before the Lords in Parliament

liament at *Westminster* on Friday the 27 day of *November* in the yeere aforesaid, Sir *John de Geminys*, and *William de Weston*, apprehended and detained in the said Tower by the command of our Lord the King because they had lost and rendered such Castles and Townes to the Enemies of our Lord the King, to answer thereunto upon the Articles which shall be furnished against them for the said cause, on the behalfe of our Lord the King. Upon which day of Friday, the said *John* and *William*, being brought by the said Constable before the Lords aforesaid in full Parliament, sitting in the white Chamber, they were severally arraigned, at the Commandement of the said Lords, by Sir *Richard Lescrop* Knight, Steward of the house of our Lord the King, in manner as ensueth.

William de Weston, you tooke upon you from the most puissant Prince, whom God assoyle, Sir *Edward* late King of *England*, Grand-father of our Lord the King that now is, safely to keepe to him and his heires, Kings of *England*, the Castle of *Outhrewyk*, without surrendering it to any one but to the said Grand-Father or to his said heires, or by command from him or from his said heires; have you *William* who are a Liege-man of our Lord the King, in times of the same our Lord the King who now is, true heire to the said Grand-Father, delivered and surrendered the same to the Enemies of our Lord the King, without command from him, to the dishonour (or damage) of him and his Crown and of the Estate of his Realme of *England*, against your allegiance and undertaking aforesaid? What will you say hereunto?

(m) Num. 39.
Whereupon the said *William* said, that he had put his answers in writing, and produced before them a Cedule containing many things comprised within the same, and came and read the said Cedule in full Parliament. Whereupon it was demanded of him by the said Steward, if he presented before them this Cedule for a small answer in this behalfe, or not? And hereupon the said *William* prayed that this Cedule might be redelivered to him, and that he might put in his small answer; which Cedule for the cause aforesaid was redelivered to him; and after the said *William* delivered the said Cedule, with an addition put thereunto, in full Parliament, for his small answer in this behalfe, the Tenor of which Cedule is such as followeth. To the most sage Councell of our Lord the King, and to the other Lords and Commons of the Parliament, supplicantes and sheweth *William de Weston*, that albeit he be accused of this, that he hath maliciously rendered the Castle of *Outhrewyk*, of which he had the custody by delivery and assignement of our Lord the King; may it please your sage and just discretion to have the said *William* excused thereof, for these causes ensuing. First of all, may it please you to remember, how that the said *William* was lately informed by a spie, that a great power of the Enemies would come upon him to besiege the said Castle, with very great and very grievous Ordnances; whereupon he the said *William* presently by his Attorney and by his Letters, required of the said councell, that it would please them to re-enforce the said Castle with more men, for the defence and safeguard thereof, in regard that the Garrison of the said Castle that then was, were not halfe sufficient in respect of multitude to resist so great a force in so large a place; but in conclusion, for all this, he could not have any succour from the said councell. And so the said *William* nor at all through his default, was left without people sufficient for to keepe and defend the said Castle any long time which

* Trebuchet.

which he beseecheth you to take into your just and benigne consideration. Also, please you to know, how upon a Monday about one of the Clocke the enemy came to besiege the said Castle, to the number of about 2600 Men of Armes, and 700 Arblasters Genevoises, and with 5000 of the Commonality of the Countrey, having nine great Cannons, divers Engines, and one Morter-piece, beyond all measure, greater then ever they had seene any before in those Marches; and the same houre, presently a great number of the men of Armes and Arblasters aforesaid came before the Gates, for to assaile the said Castle, and at this time a Knight of theirs was slain, who was Cousin to the Lord de Clifton as was reported, and many others were likewise then slaine and wrecked; and within a short time after, they began to discharge and shoote with their Ordnances, and other Engines, and so continued their assault from one day to another, that is to say, Tuesday, Wednesday, Thursday; and then were the Walls and houses of the Castle battered downe and bruised in many places; and they had likewise by force trenched the Ditches of the said Castle, in three places, so as all the water was drained out; and that night came a great party of them, and by fine force made an assault and abated the Baracades; and the next day which was Friday, they came about day-breaking with all their Forces to assault the said Castle, but with Gods assistance they were yet repulsed with force from their assault, and of the one part and other there were some slaine and wounded. And the same day the Marshall of Burgone, sent to the said William and others of the said Castle, to render it, whereupon having consideration, that the said Castle could not be kept, as well in regard of the small number of the people, as by reason that the Walls in many places were weakened by their marvellous Ordnances, there was a Treaty with the Lords to this end, that the said William and his companions might advise themselves against the next morning. And so they departed each to their own. Also this same night the Enemies caused all their Ordnances, Engines, Morter-piece, and Cannons, and Fagots, with scaling-ladders, Galleries, and all other necessities to be drawn up nere to the very Ditch of the aforesaid Castle; and the next day which was Saturday, they made all things ready plainly for to assault the place. And then first of all they sent an Herald to the said William to know, if the said Castle should be rendered to them, or not? Whereupon the said William by advice of the wisest of his companions, taking consideration how that the said place was destroyed and enfeebled with their Ordnances, and also that they were too few men for its defence, by reason that 12 of their companions were in that time slaine, wounded, and sicke, so as there remained of all the people of the Garrison in health, but only 38 men to defend the same; hereupon by common assent the said Castle, which could be kept no longer, was by force surrendered, for to save their lives granted to them, and their goods; and that all these things aforesaid are true, the said William puts himselfe upon his prooffe, according to your discrete Ordnances. Also it is to be remembered, that when the said Castle was thus rendered as aforesaid, certayne French people bargained with the said William for his Victuals to buy them, together with certayne prisoners which the said William held imprisoned within the said Castle, for which things he received of them for his payment 1500 Frankes: of which he paid to his Companions for part of their wages, which was behind unto them for one quarter of a Yeare and an halfe 78 Frankes; likewise, after was paid at Calceys for the victuals of the said Castle before that time due, 442 Frankes. Also for the passages of the said William and of his companions unto England, was paid 1000

for the expenses of the said William being at Calleys 135. franks. And therefore the said William prayeth in this regard, your Justice and benignity seeing by various suggestion he hath against all reason bene accused, whereby his estate and name by the grievous sin of misinformers, and be also are ruined: having likewise consideration that out of his proper goods he hath for the greater part paid his companions, their wages which were due unto them as aforesaid, and also for the great costs he hath bene at before this time for so, will all the said Castle, (for which he hath given his obligations in diverse places, and with great summes, by reason whereof he is in all sides undone, if you just benignity doe not succour him;) that you would be pleased for Gods sake, and for glory to endowe likewise for him, that he may by your discreet noblenesse recover his estate and goods. Also the said William Weston sheweth, How the first day when the enemies came before Arde, that he went in haste to Calley unto the Captaine, and desired of him more succour and aid of men for the better guarding of his Fort of Outhwayth, and so desired it of the enemies should come before him. And the Captaine answered him, saying That he would not deliver, nor give him aid nor succour at the said time, because he doubted that the said enemies would come before the Towne of Calley. And the said Cedale being viewed and read in full Parliament, immediately after was the said John brought thither by the said Steward in the manner following.

John Lord of Gominy, you come upon you to the most puissant Prince, whom God affoile, Sir Edward late King of England, Grandfather to our Lord the King that now is, safely to keepe to him and his heirs, Kings of England, the Towne and Castle of Arde, without surrendering the same to any person, excepte to the said Grandfather and his Heire, or by commandment of him or of his Heire, these have you Lord of Gominy in time of our Lord the King that now is true Heire to the said Grandfather, delivered and surrendered to the enemies of our Lord the King without commandment from him, to the dishonour of him and of his Crowne, and of the state of the Realme of England, against your undertaking aforesaid: What will you say therunto? Whereupon the said John answered, That the said Towne and Castle of Arde were so weak, that he could not well keepe them against so great a power of the enemies, which was then ready to assaile the same Towne and Castle; and therefore he caused to assemble all the Knights, Esquires, and others being in the said Towne, and informed them of the perils of the said Towne, and force of the said enemies, and by common counsaill and assent of the said Knights, Esquires, and others, he issued out to the enemies to treat with them, for to save the Lieges of our Lord the King being within the said Towne and Castle of Arde, without that that he ever took any thing for to surrender the said Towne and Castle of Arde. Upon which one Geoffry of Argenton Knight, said in full Parliament to the said John, That he the said Geoffry was at that time in the said Towne in company of the said John, and that the Towne and Castle of Arde were never delivered nor surrendered by his counsaill nor assent, but that he was alwayes ready to die and life upon the safeguard of the same; and the said Geoffry offered to prove it if any would deny it. And further, it was demanded of the said John, If he would say any thing else? and he said, He would not. Whereupon the said Countable was charged with the safe custody of the said John and William untill the next day, the Saturday next ensuing, and to bring them againe safe before the said Lords in the said Parliament at the

the place and day aforesaid. At which day of Saturday, that is to say, on the twentieth day of November in the yeare aforesaid, it was shewed unto them severally by the said Steward on the same day, by the commandment of the Lords aforesaid, how upon the answers that the said *John and William* had given in the said Parliament, as before is said, the Lords of the said Parliament, that is to say, the King of Castile and of Leon, and Duke of Lancaster, Edmund Earle of Cambridge, Edmund Earle of March, Richard Earle of Arundel, Thomas Earle of Warwick, Hugh Earle of Stafford, William Earle of Suffolk, William Earle of Salisbury, Henry Earle of Northumberland, John Lord Nevill, Roger Lord Clifford, and many other Lords, Barons, and Bannerets being in the said Parliament, who had assembled and advised together from the time that the said Answers were given in Parliament the Fryday, untill this Saturday at three of the clocke, of things touching the Answers aforesaid, and came and examined diligently the said Answers, and other Articles touching those matters; and taking thereupon good and mature deliberation and due information, of the most valiant and most discreet Knights and other being in the said Parliament, it was thus said. First of all in manner as followeth to the said *William* by the Steward, reciting the things aforesaid touching the said *William*; It seemeth to the Lords aforesaid, That you *William*, who had taken upon you safely to keep the Castle of Outhewyk, as before is said, that you *William* have without any default or defaults of Villains, covilly delivered and surrendered the same to the enemies of our Lord the King by your own default, against all apparent right and reason, and against your allegiance and undertaking aforesaid; and having by due information read the case of the late Baron of Grayshock, who was a Lord, and one of the Peeres of the Realme, who had taken upon him safely to keepe to the aforesaid Grandfather the Towne of Berwicke: The said Baron perceiving afterward, that the said Grandfather wold send himselfe to ride into the Realme of France, the said Baron (without command of the said Grandfather) committed the said Towne of Berwicke to a valiant Esquire Robert de Ogle, a Lieutenant to the said Baron, for to keepe & save the said Towne of Berwicke to the said Grandfather, and the said Baron went to another part of the said parts of France to the said Grandfather and there remained in this company. During which time, an assault of warre was made upon the said Towne of Berwicke by the said Scots, and the said Robert, as Lieutenant to the said Baron, valiantly defended the same; and at last by such forcible assaults the said Towne was taken upon the said Robert, and two of the sonnes of the said Robert there slaine in the defence of the same. Nevertheless standing, because that the said Baron himselfe had taken upon him the safeguard of the said Towne to the said Grandfather, and departed himselfe from thence without command of the said Grandfather, and the said Towne of Berwicke was left in the absence of the Baron, he being in the company of the said Grandfather in the parts of France, as is aforesaid. It was adjudged by advice of the said Grandfather, the King of Castile who is present, the Nobles, Dukes, and Countes whom God assaile, Henry late Duke of Lancaster, the late Earles of Northampton and Stafford, and Sir Walter de Mauny, That the said Towne was lost in default of the said Baron; and for this cause he had judgement of life and member, and that he should forfeit all that he had: and to render this judgement in these words, the said Sir Walter had a command from the said Grandfather; Which thing considered, and this also, That you *William* surrendered the said Castle of Outhewyk to the enemies of our Lord the King aforesaid,

aforesaid, without any doreffe or want of victuals, against your allegiance and under-
 taking aforesaid, the Lords above named sitting here in full Parliament, adjudge you to
 death, and that you shall be drawne and hanged. But because that our Lord the King is
 not yet informed of the manner of this judgement, the execution thereof shall be respited
 untill the King be informed thereof. Whereupon it was commanded to the said Con-
 stable safely to keepe the said William, untill he had other command from our
 Lord the King. And as to the said John Lord of Gomeris, touching his answers
 aforesaid, it was shewed unto him by the said Steward, how the said Lords had as-
 sembled and considered of the said answers as afore is said; and moreover it was
 shewed to him, how that in the time that Sir Ralph de Ferrers Knight, had the cus-
 tody of the said Towne and Castle of Arde, the said Towne of Arde was not
 halfe so strong as it was at the time the said John surrendered the same; and the
 said Ralph had a command from the said Grandfather to surrender the same; for
 the feeblenesse thereof, before that the said Ralph would put himselfe into very
 great perill for the safeguard thereof; notwithstanding the said Ralph valiantly
 defended and maintained the same against a very great and strong assault of warre.
 And thereupon, and the things aforesaid, and other evidences touching the an-
 swers of the said John in this behalfe; it was said in manner as followeth to the
 said John being in Parliament, by the said Steward, reciting all things aforesaid
 touching the foresaid John; and also the forecited judgement of the said Baron, and
 the cause thereof in manner above said, That it seemed to the Lords aforesaid sit-
 ting here in Parliament, considering your answers in this behalfe, and the examinations
 and informations had thereupon as before, and having regard also to this, that there were
 lately sent unto you to the said Towne and Castle of Arde, above the number of men with
 which you had at another time undertaken the safe guarding of the said Towne and
 Castle, 20 men of Armes, and 20 Archers, to enforce the same, according to your request
 then made to certain Lords late being upon a message at Calys on the behalfe of the
 said Grandfather; and this also, that at that time it was said unto you by the King
 of Castile who is here present, is if you could not well keepe them, you ought in no manner
 to undertake to keepe the same, and that another should have and keepe them, who would
 take upon him safely to keepe the same to the said Grandfather and his heires aforesaid;
 and thereupon you undertooke to keepe them safely without surrendering them to any, ex-
 cept in manner as aforesaid; and now you John without excuse or default of Kisthale or
 Artillery, or of other things necessary for the defence of the said Towne and Castle of
 Arde, without command of our Lord the King, have evilly delivered and surrendered the
 same to the enemies of our Lord the King, by your owne default; against all appearance
 of right or reason, and against your undertaking aforesaid; wherefore the Lords aforesaid
 here in full Parliament adjudge you to death; and because that you are a Gentle-
 man and a Baron, and have served the said Grandfather in his warres, and are a liege-
 man of our Lord the King, you shall be beheaded without having other judgement; And
 because also that our Lord the King is not yet informed of the manner of this judgement,
 the execution thereof shall be put in respite, untill our Lord the King be informed
 thereof. Whereupon the foresaid Constable was commanded safely to keepe the
 said John, untill he had other command from our Lord the King.
 And it is to be remembered, that Geoffrey Martyn Clarke of the Crowne made
 this very Record, and delivered it thus written in this present roll, with his owne
 hand.

From this memorable Record, I shall onely observe these few particulars.

First, that the surrender of Townes or Castles to the enemy, through cowardize or treachery, is properly examinable, and tryable onely in Parliament, it being a detriment to the whole Kingdome, and to sit to be determined by the representative body of the Kingdome.

Secondly, That the cowardly delivering up of any Towne or Castle by the Governour thereof to the enemy, is a capitall offence, deserving death; and likewise the losse of it through his negligence or default.

Thirdly, That those who are accused of such an unworthy surrender of any Town or Towne, is obliged in point of trust and duty, under paine of death, to defend it to the utmost extremity.

Fourthly, That the concurrent assent of a Councill of Warre or souldiers, to render up a Towne to the enemy before utmost extremity, for the saving of the houses, lives, and goods of the souldiers or inhabitants, is no excuse at all to justifie or extenuate such a Governours dishonourable surrender and offence.

Fifthly, That those who are accused of such an unworthy surrender of any Town or Castle, ought to be apprehended and kept in safe custody till their trials be past; and not suffered to goe at large.

Sixthly, That a Governour giving timely notice of the enemies approach, of the weakness of the Garrison, his suing for timely ayd, and repulsing of the enemy for a season, will no waies excuse his surrender of a Towne or Castle, unless he hold it out to the uttermost extremity, or surrender it by the consent of those who intrusted him with the custody thereof.

Seventhly, That the violent battery of the walls, or draining of the dikes of any Castle or City, or any breaches made in them by the enemy (though extraordinary powerfull) are no sufficient causes or excuses for any Governour to surrender them upon composition to the enemy, whiles there is sufficient Victuals, Men, or Ammunition to defend them; and that they must in no wise be surrendered without consent of those who put in the Governour, till the greatest part of the Souldiers be slain, the Victuals or Ammunition quite spent, and all hopes of reliefe disappointed of utterly, upon good grounds. Which is cleare by the case of *Weston*, who made a better defence of the Castle of *Donbriwicks* with 38 men onely, against more then 8000 enemies (who besieged, assaulted, battered it for six daies together, with nine great Cannons, and other Engynes) and pleaded farre more in the defence of his surrender of it, then many now can doe for surrendering of Townes and Castles of farre greater importance then this Castle was, in a shorter time then he did; when furnished with Garisons of many hundreds, and sufficient Victuals and Ammunition; and that before any battery or assault made against the walls thereof: and yet for all this was ~~was~~ in full Parliament adjudged to death for it, though he sold the Victuall and Prisoners to the enemy, and payd his souldiers wages, and other debts of the Castle with the money. When some of late have surrendered Victuals, Armes, Colours, Cannons, Prisoners, and all Magezine whatsoever to the enemy before they were necessitated or enforced to it; to the Kingdome unspeakable losse prejudice, and the enemies infinite advantage.

Wilmington & Spilsworth.

In the Parliament Rol of 7 R. 2. Num. 17. I finde this case in Parliament in these termes. Item, upon the complaint which hath been made to the King, of

Thurs

Pierce de Cressingham and *Iohn de Spysworth* Esquires, concerning this; that whereas they were made in the said voyage (to wit of the Bishop of Norwich into *Flanders* with an Army) Captaines and Guardians of the Castle of *Drinkham* in *Flanders*, which was gained from the enemies, and after that well and sufficiently stored with victuals and other necessities, and strong enough to be held against the enemies, that they left and rendered the said Castle to the said enemies, receiving of them for this delivery and surrender, by Treaties made with the enemies, a sum of gold, and that by Covenant made with the Kings enemies, without the will and command of our Lord the King himselfe or of his Lieutenant: for which the said Esquires were arrested by command of the King, and after put to their answer in Parliament. And the said *Iohn Spysworth* excused himselfe before the King in Parliament in this manner, That he had never the custody of the said Castle, nor any thing to doe therewith, save onely that as he was riding into the Countrey somewhat neere the said Castle of *Drinkham*, to make his best advantage upon the enemy, by force of the said enemies he was there chased to the said Castle, then being in the custody of the said *Pierce de Cressingham*; and sence after he saith, That upon an assault made to the *barrican* there, by the enemies, he was unhappily rent, and one of his warlike slaine in the Garrison very neere him, where he remained continually untill the said *Pierce* rendered the same, and otherwise he had never any thing there to doe, neither as a souldier thereof, nor in any other manner whatsoever; praying, that therefore it would please our Lord the King to have him well excused. To whom it was answered on the behalfe of the King, that if any man knoweth not to say more against the said *Iohn*, contrary to his said answer now made, that the King will hold him well excused, and wills that he shall be disarrested, and suffered to goe at large. And the said *Piers of Cressingham* well knowing that he had the guard of the said Castle, said, That as soone as the enemies were come before *Burburgh*, in which were the *L. Beaumont*, *Sir William of Ellingham*, *Sir Thomas Tryvet*, *Sir William Farrinden*, and many other Englishmen, and the Towne and Castle of *Burburgh* being rendred to the enemy, of all the souldiers which he had with him at *Drinkham*, none would there continue with him upon the safe guard of the said Castle but onely 5 persons in all; by reason of which great necessity he was forced, in safeguard of his owne person and his people, to make a Treaty with the enemies, for to deliver up the said Fort, and thereupon he did it, and not for any other cause, nor in any other manner, but onely by constraint of the power of the said enemy as aforesaid. And further he saith, that he never received any thing from the said enemies by way of gift, or in any other manner; whereupon he conceiveth that no man ought to impute any manner of blame, nor of reproach unto his person. But if it shall be thought that he hath done ill in any manner, he puts himselfe most humbly into the grace of his Liege-lord. And because that this excuse seemed not at all to be sufficient. (though a better then many now can make for themselves) he was committed to prison, there to remaine untill the King our Lord had otherwise declared his pleasure concerning him.

In the same Parliament of 7 R. 2. Num. 22. The Bishop of *Norwich* generall of the Forces sent over into *Flanders*, having 4 Articles exhibited against him in this Parliament, touching that expedition, and the surrendering of *Graveling* to the enemy; to which he had given some former answer, (see Num. 15, 17, 20, 21.) upon his second

The Bishop of
Norwich his arraignment and
second answer;

cond Arraignment had this proceeding. At which day the said Bishop rehearsing the 4 Articles surmised against him formerly in Parliament, and in presence of the King himselfe, gave thereto his answers, such almost as before, concerning all the things aforesaid; adjoyning thereunto, that the time when he heard the newes that the vanguard of the host of France was entered the Countie of *Flanders* and that thereupon the said siege of *Ipre* was thereby removed, he tooke a resolution to have encountered the vanguard for to have fought with them, which purpose of his he could not performe by reason that the Captaines of his Host would not assent thereunto, but those Captaines and others of his best contraried him, in so much that of necessity and for doubt of the enemies they ought to depart, and betake themselves to their Fortresses; and thereupon the said Bishop returned to the Towne of *Graveling*, & the same would he have held out well enough against all men, and did hold out untill the other Captaines had rendered their Forts to the French; and after that, untill that some English might come unto him incontinently, although there were well-nigh about 6 or 7 thousand English lying upon the sands nere *Calyce*, who were made to come out of the said Forts rendered, to their great mischief and prejudice, because they had not wherewith to live, neither could they have entrance into the Towne of *Caleys*; And for as much as the Truce made before that time ought to cease within two or three daies then next ensuing, the French had a purpose to run upon them and slay them all, as soon as the said truce was ended, which slaughter if it had beene made, would principally have turned upon the said Bishop, and after on the other Captaines, to farre greater villany and mischief then any other thing could bring; the Bishop was thereupon required and charged on the behalfe of the King himselfe, that he should render the Towne to the enemies, or else demolish it and goe his way to succour the said people, and after that towards *England* in salvation of himselfe and others of his host; for they said, that if any thing else but good had hapned to the said people, lying on the sands, they would have truly called the said Bishop to an account before the King himselfe: Whereupon it behoved him the said Bishop to abate and voyd the said Towne of *Gravelynge*, as it was lawfull for him to doe at his pleasure, being gained by his proper conquest from the enemy. And for this, and for the other reasons formerly alleaged by him, as also because that a Letter from our Lord the King came to him before, commanding him, that if there were great want of victuals in the said Towne, as in verity there was, that then in salvation of himselfe, and of the said people, he should voyd the Towne and succour the said people, and after returne into *England*; it seemes to him, that he ought to be well excused of what ever is surmised against him. * To which the said Chancellour replied and said: Master Bishop, as to this your last reason, it is true that you had sufficient victuall when this Letter came unto you; and besides this, the King sent you other victualls in great plenty; and also with it other good Letters, containing, how he had appointed his uncle of *Spaine* to come speedily to you for your ayd and succour; and all this notwithstanding you departed thence, leaving the said Towne to the enemies against the forme of your indenture, by the which the King hath given and granted you whatever you might conquer, not at all to render, sell or leave the same to the enemy, but to hold and possesse. And also to that which you have said in your first answer, that by your said voyage Truces had been agreed between the

* See the Historie of this Treaty and abatement of the Towne in *Walsingham. Hist. Angl. p. 317, to 330. and in Holinshead, Speed, Grafton, in 6 R. 2.*
* Num. 27.

the Realmes, and happy offers of peace made by the adversaries of France, which you say shall be an introduction to a good and finall peace, which God grant, it containes no truth at all; For true it is, that the newes spread in the Army of France of the comming of our Lord the King, and of Mounseigneur of Lancaster, who was at the Sea side ready to passe for your succour, was the principall cause of the Truce and profers aforesaid, and of the Treaty to be commenced; for it is no probable thing at all, nor in any wise agreeable to reason, that you who were with your people chased by force of the enemies out of the field, and afterwards besieged by them within your Fortresses, should be the cause of the said Treaty by any way. And so as to this, nor yet as to any other of the reasons before alleaged, nor for the rebellion of your Captaines or others of your retinue, nor any other defaults which you have or may surmise unto them, (considering that you had them all of your proper choosing and election, and not at all by the denomination of our Lord the King or of his Councell,) you neither can nor ought to be at all excused of the damages, deceits, villanerie, contempts, and the other losses and misprisions furnished to you, nor in especiall of the Treaty made with the enemies upon the deliverance of the said Fortresses, of which there are certaine Indentures made and drawne betweene you and your Captaines on the one part, and the enemies of the King on the other part, sealed with their seales, and the seales of the other Captains, without the authority or consent of the sayd our Lord the King, as before is said. And moreover the said Chancellour said in the behalfe of the King, Sir Bishop, although the King our Lord might clearly handle and judge you as a temporall person of his Realme, because you have behaved and carried your selfe as a temporall person; for you expressly obliged your selfe to the King our Lord by your Indentures, to be a Souldier of the King, to governe the Christian people after the termes of your *Crossado* ended, and you used commonly to have your Sword carried before you; and you did many other such like things every day. Publickly as a Lord temporall, against the common custome of the estate of a Prelate of England: Notwithstanding, by reason of your estate, the King our Lord, of his grace, will forbear for the present to lay his hands upon your body. But for as much as he is informed, that you your selfe have complained to many Lords of the Realme, that wrong hath beene lately done you on the last day, affirming by your words, that that which was done passed not at all by assent or knowledge of your Peeres of the Realme, this is greatly to be marvelled of you, and of these your words, seeing the ill successe toucheth nothing at all your Peralty, but onely certaine misprisions which you have made and perpetrated as a Souldier of the King, against the forme of your Indentures and Covenants which you have made with the King our Lord, to the great damage of the King, as before is said, whereof the constance and punishment of common right and ancient custome of the Realm of England, onely and totally appertaineth to our Lord the King, and to no other. And true it is, that you have not at all by this your last answer any whit amended your matter in excuse of your selfe, upon the things furnished against you, but as it seemes have more greatly impaired the same. Wherefore by the assent of the Earles, Barons, and other Lords temporall present in this Parliament, it is assented and accorded, that you shall be in the mercy of the King, and put to a fine and ransom for your misdoing, according to the quality and quantity thereof. And to doe this you shall.

'shall be compelled and constrained by the seizure of the temporalities of the Bishopricks of Norwich. And the King commands you, that from henceforth you shall not cause nor suffer any sword to be carried before you, as it hath been done, under the perill which shall follow. And it is expressly accorded in this Parliament, that whatsoever hath been expended on your use of the said Franks of gold, you shall make full payment thereof in the Treasury of our Lord the King, without delay or difficulty.

* See *Walsing.*
Hist. Ang. p.
327. to 330.
Holin. Grafton,
Fabian, Stow,
Speed, Mariyn,
Trussell, in
6 Rich. 2.

Upon this judgement the Temporalities of this Bishop were immediately seized into the Kings hands, and detained in them a long time for this his surrender of Graveling, as *Walsingham, Holinshed, Grafton, Speed, Trussell*, in their Histories, and *Godwin* (in the life of this Bishop) attest, who had lost his life, had he been a Lay-man, onely for the surrender of *Burburgh* and *Graveling*, which were manfully defended against a great power of the French, till aid was sent for into England, and Letters received from the King, but the aid not coming so speedily as was expected to him, he compounded with the French to raise *Graveling* to the ground, and to depart whether he would with his bag, baggage, and men. And yet for all this he was thus censured in Parliament, because he held not out the Towne to the uttermost, though the enemy gained it not, and himselfe had formerly won it from them.

* *Hist. Ang.*
p. 337.

In this very Parliament of 7. R. 2. as I read in *Walsingham*, and in *Holinshed, Speed, Grafton, Trussell*, out of him, newes came from the Northerne parts, that the Castle of *Berwicke* was taken by the Scots, whose custody *Henry Percy Earle of Northumberland*, then possessed by ancient right: the Scots, for money, fraudulently getting entrance into the said Castle by one who had the custody of it at the second hand, under the Earle. Hereupon by Duke *Johns* procurement (as was reported) the said Earle on the fourth of December, for the losse of the said Royall Castle, by the Judgement of the Lords and of the King then present in the said Parliament, had a sentence of condemnation publicly pronounced against him, notwithstanding that the said Earle had beene summoned to the said Parliament by the Kings Writ, and would rather have tarried at home for the defence of his Country. But the execution of the said sentence was soone after released by the King, and the Earle by his indulgence restored to his life and possessions, which he was adjudged to lose. Whereupon he posted into the North, and calling his Forces and friends together, strongly besieged the said Castle, and in few dayes took it by composition, he giving the besieged their lives, moveables, and two thousand markes to surrender it. And thus hee was taught to keep his Forts more wisely for the future, and to commit the custody of them to more trusty and valiant persons.

* *Speeds Hist.*
p. 1050. 1156.
Grafton, Holinshed, How,
Camden.

The Lord *Wentworth* Governour of *Calveys*, delivering up that Towne to the French, (after they had taken the Castle by force, made a breach in the Towne walls, and slaine above fourscore of the Garrison at one assault when they tooke the Castle, together with Sir *Anthony Ager* Marshall of the Towne, and his sonne and heire) and that upon dishonourable termes, nor without some suspicion of treachery, he was thereupon endicted in *Queene Marias* dayes for his cowardly and treacherous surrender of this Town, contrary to his trust; and after that was arraigned at *Westminster* in the first yeere of *Queene Elizabeth*, the Marquesse of *Northampton* being his Judge, and Lord chiefe Steward of *England* for that day. But that noble man so nobly defended himselfe, that hee was acquitted by his Peeres, and

was

was a most honourable opinion for his many and faithfull former services, other-
wife he had lost his life.

Anno 27. H. 6. *Carn* being besieged by the French, the Duke of *Semmerfor* * *Grafton* p. 644. 645.
Governour of *Normandy* then in it, being more pitious then hardy, moved with
the dolour and love of his wife and children, called a Councell of warre, and
would have surrendred it to the enemy upon composition: But Sir *David Hall* be-
ing Captaine of the Towne under the Duke of *Yorke*, owner of the Towne by the
Kings gift, would not consent thereto without the Duke of *Yorke*s assent, (though
the Duke alleadged he was the Kings Deputy there, representing his person, and
might doe what he pleased, according to his discretion) it being committed to
his immediately trust.

To give you some few Domestick Examples of the punishment of treacherous
surrenders of Forts, and penalties inflicted for the same.

* Anno 1313. being the twelfth yeere of Ed. the 2. his reigne, *Peter Spalding*,
to whom this King had intrusted the Towne of *Berwick*, treacherously sold and
betrayed the same to the Scots for money. But *Spalding*, after the Treason done, had
the reward of a Traitor; *Robert King* of Scots, to whom he sold and betrayed
the Towne, putting him to death, to save the King of *England* the labour of hang-
ing him for this Treason.

Sir *John Annesley* Knight, in the Parliament of 30 E. 3. (commonly stiled, *The good*
Parliament) had accused *Thomas Karington* Esquire of Treason, for selling and deli-
vering up the Castle of *S. Savionr* (built by the Lord *John Chandos* within the Isle
of *Constantine*) to the French, for an insupportable summe of money, when as he wanted
neither meanes of defence, nor victuals: which Castle, had it not bene thus traitor-
ously alienated, had descended to the said Sir *John* in right of his wife, being next
heire to the Lord *Chandos*, offering to make good this accusation, and trie it out
by Duell; whereupon the said *Thomas Karington* was then apprehended and im-
prisoned, but soone after by meanes of the Duke of *Launcester* and the Lord *La-*
tymer, (who then did what they pleased) released, being formerly their instru-
ment and creature in peace and warre, in all just and unjust, in true and false things;
neither could the said Sir *John* obtaine the effect of his suit till the Parliament of
9. Rich. 2. Anno 1380. some men affirming, That it was against the Lawes of the
Realme for any man of the Realme to fight such a duell for such a cause; Many who
feared the like tax and accusation, did most of all hinder this trial: but at last, in this
Parliament, the ancientest and truth-speaking Knights of the Realme being assembled,
it was resolved, that for a forraigne cause, such as the present was, which arose not with-
in the limits of the Kingdome, and for the possession of transmarine things, it was law-
full for any man to fight a duell, if the cause were before certified to the Constable and
Marshall of the Realme, and the duell accepted by the parties in their presence. Where-
upon a day of battell, and Lists were appointed them in the Court at *Westminster*,
where this duell being solemnly fought on the seventh of June between these two
Champions, in the presence of the King, Nobles, and an infinite multitude of
people; the traitorous Esquire was vanquished by the Knight; so the joy of the com-
mon people, and to the griefe of Traitors: the Esquire, who fainted in the place, died
the next morning, to save the hangman a labour, else he should have bene ex-
ecuted, as the *Navarroi* was in 7. Rich. 2. when vanquished in a like Duell before
the

* *Walsing. Hist.*
Ang. p. 38.
Hec. Boetius
lib. 14.
Polyd. Vir. l. 10.
Hard. c. 172.
Sped. p. 674.

Holinsh. Stow,
Grafton, Du-
niel, Martyn, in
12 Edw. 2.

Cambd Brit. p. 1817.

* *Walsing. Hist.*
Ang. p. 245. to
248. *Fabian,*
Holinsh. Pol.
Virg. Grafton,
Stow, Sped,
Martyn, Truskel,
in 3 Rich. 2.

* *Noti.*

* *Walsing. Hist.*
Ang. p. 337. see
Holinsh.
Grafton, Sped,
Truskel, in 7 R. 2

7 Rich. 2.
The case of Sir
William de
Elmbam and
others;

the King and Lords in Parliament, by *John Walsb* Esquire, (whom he falsely accused of Treason, done beyond the Seas, against the King and Kingdoms, upon the like occasion) though the Queen and many others interceded to save his life.

In the Parliament Rolls of 7. Rich. 2. num. 24. I finde this Record. *Item*, Sir *William de Elmbam*, Sir *Thomas Tryvet*, Sir *Henry de Ferriers*, and Sir *William de Farndon*, Knights, and *Robert Fitz-Ralph* Esquire, who by the said charge formerly given in Parliament, had bene with the Chancelleur, and acknowledged and confessed to him, How that they had received certaine summes of Frankes of gold of the French, in lawfull and due manner, and not otherwise. To which they said, First of all, that is to say, the said Sir *William of Elmbam*, *Thomas Tryvet*, *William Farndon*, in one parcell three thousand Frankes of gold. *Item*, in another parcell, &c. *Item*, the said Sir *William Elmbam* received another parcell of the French for the Castle of *Burburgh*, whereof Master *William de Hoo* was then Captaine, and for the victuals of the said Master *William de Hoo*, being in the said Castle of *Burburgh* two thousand Frankes, whereof the said *William de Elmbam* presently paid, as hee said, one thousand Frankes to the said Master *William de Hoo*, and the other thousand Frankes he promised to pay at a certaine terme to the same Master *William de Hoo*, &c. *Item*, there is another great misprision that some Lieges of the King rendered and delivered to the said enemies of the King, Castles, Fortresses, Victuall, Armour, and other refreshment, without speciall command and authority of the King, or of his Lieutenant; but yet it is far worse to sell or alien to the said enemies any Fort; Victualls, Armour, or other refreshment, by receiving money or other goods of the said enemies, without authority of the King, or of the same his Lieutenant. And Sirs you know well and cannot deny, That by certaine Covenants made betweene the said French enemies, and you the said Sir *William de Elmbam*, *Thomas Tryvet*, *Henry de Ferriers*, and *William de Farndon*, and others, of which there are certaine Indentures made and sealed with your Seales, you lately made a Treaty with the said Enemies, without the will or authority of the King or of his Lieutenant, and by this Treaty, and your sale of the said Forts, Victualls, and Armes, you received the said summes of gold; and by this, and by other your affaires, and rebellions made to your Generall, the said host was spoiled and destroyed, to the grievous damage, villany, and contempt of the King our Lord, and very great profit and comfort of the said enemies, for which you are worthy to undergoe reproach and grievous punishment. For you Sir *William de Elmbam*, received of the said enemies the said two thousand Frankes, for the sale and surrender of the said Castle of *Burburgh*, and of the Victualls, Armes, and other goods therein, then being to a great number and value, without the leave and authority of the King our Lord and the consent of the said Master *William de Hoo* Captaine of the same, although that the said Castle was well able to have held out for a long time against all men. And also you the said *William de Elmbam*, *Thomas Tryvet*, and *William de Farndon*, received to your proper use in common the said three thousand Frankes of the gift of the said enemies, for your consent and aid to the said Treaty made upon the voydance of the English out of that Countrey, and the deliverance of the Town; of *Graveling*, and of the other Fortresses then occupied in those parts, &c. And you the said Sir *William Farndon* are in another very great default, because you would

would not carry backe to the said Enemies the five thousand Frankes by you left
at *Graveling*, against the will and command of the said Bishop your Chieftaine
&c. And the said Sir *William de Elmham* saith, That although he hath so recived
the summes aforesaid, yet it was done for Victuals, Prisoners, and other goods
which he had within the Fortresse of *Burburgh*, and elsewhere in those parts,
and which with the same Fortresse hee rendred by the said Treaty, as of fine
force he ought to doe for the salvation of himselfe and his people: for otherwise
the Towne of *Burburgh*, where the Lord *Beaumont*, Sir *Thomas Tryvet*, Sir *Wil-*
liam de Elmham, and a great number of the people of their Army were besieged,
and assaulted by the enemies in very great number, and the Towne within set on
fire, had beene taken by them by force, and all those within it taken or slaine:
and therefore he conceiveth, that in doing this, hee hath done nothing amisse.
But notwithstanding, if it appears to the King our Lord that he hath done any
thing amisse, he puts himselfe upon his noble grace, &c. And the said Chancel-
lour in replying to the said Sir *William de Farndon*, *Henry*, and *Robert*, saith, &c.
And certainly as to this which you Sir *William de Farndon* say, That it had been bet-
ter to cast the said gold into the Sea then to have sent it backe to the said enemies;
This is not true, for it had beene better that the enemies had recived their owne
gold, then any Traitor of the King our Lord, and he who shall hereafter sell the
Fortresses of the King to the enemies, for gold or other their goods, may excuse
himselfe in such manner as you would now excuse your selfe. And after these mat-
ters thus by the same persons alledged for their excuse, being considered, and held
and adjudged insufficient for their excuse in this behalfe, The said Chancellour in be-
halfe of the King, spaketh thus, It is accorded in Parliament, that you Sir *William*
de Elmham, *Thomas Tryvet*, *Henry Ferriets*, *William de Farndon*, and *Robert*
Fitz-Rauf, shall make agreement and full payment to our Lord the King of whatsoever
you or any of you have so received and taken of the enemies aforesaid; and further
that all you the said Sir *William de Elmham*, *Thomas*, *Henry*, and *Robert*, be com-
mitted to prison, and there ransomed at the will of the King, for your misdeeds aforesaid,
having due consideration of the quality and quantity of that deed which every one of
you hath done. And that you Sir *William de Farndon*, because that you have re-
ceived of the said enemies divers summes of gold, and have given them horses to their
great refreshment, for which you had no license of the King nor of his Lieutenant,
shall be in the mercy of the King, body and goods, to doe with them what he pleaseth.

In the Parliament of 28 *Henry 6.* Rot. 30, 51, 52. the Commons preferred di-
vers Articles of high Treason to the King and Lords against the Duke of *Suffolke*,
among others these ensuing; That he being a good assaunter for the King of England to
Charles, calling himselfe French King, promised to *Reynor* King of *Sielle*, and to *Charles*
Dangers his brother, to mislead the King, the release of *Angeou*, with the deliverance
of the County of *Maine*, and the City of *Maulu* or *Maum*; which promise after his
returne became to be performed, to the Kings disservice and losse irrecoverable,
and to the strengthening of his enemies, and feeblesse of the Duchy of *Normandy*. To
the which Article hee answered, That his Commission was, to conclude and doe all
things according to his discretion for the obtaining of a Peace, and because without de-
livery of those Countreies, he perceived the Truce could not be obtained, he agreed to the
release and deliverance of them.

* See Holins.
Grafton, *Speed*,
Hall, *Maryn*,
An. 28 H. 6.
Art. 43

Artic. 31.

Item, the said Duke within this your Realme, hath untruly counsell'd you to grant froyen without due consideration the Castle of Mawlyon de Soell, and full many divers other great Lordships, Seignouries, Places, Offices, Profits, Revenues, Casualties, and Commodities within your said Duchy of Guyan, whereby your power there to support your Warres and Armes, and to pay the wages of your great Councillors, Captains, and Souldiers hath beene so enfeebled, that your people of the same Duchy, neither your land there, might in no wise be defended.

Artic. 34.

Item, the said Duke of Suffolke without deliberation and advise of Your Counsell, hath caused Your Highnesse to grant to divers persons, many Capitaines Offices, Townes, Lordships, Places, Interesses, Profits and Revenues within Your Realme of France and Duchie of Normandy, to such persons as were not to You profitable, nor able, nor convenient to have or Governe any of the premises, nor ever had deserved to obtaine of Your Grace any such grant; which hath beene done by him for his great availe and lucre, and hath beene one of the greatest meanes of the loss of the said Realm of France, and Duchey of Normandy.

* See Halls
Chronicle 28.
H 8. Grafton. p.
607. to 613. Fabian, Caxton,
Holinshead,
Speed, Stow.
Polidor Virgill
Martin. An. 28.
Hen. 6. & 28.
H. 6. in the
Parliament
Rols. num.
30. 51. 52.

* The Duke upon these Articles was committed to the Tower for one moneths space, to pacify the people, and then released by the Queenes meanes, who intirely loved him; whereupon the Commons were so far from being pacified, that they were more enraged; openly denouncing, that it was a shame to all the whole Realme to see such a person, guilty of so many misdeeds, either to rule about a Prince, or to be had in honour, or suffered to go unpunished; Upon this the Commoners rising up in divers places of the Realme in Companies under Capitaine Blowbeard, the Commons in Parliament earnestly beseeched the King, that such a person as assented to the release of Angeou, and deliverance of France, &c. might be extremely punished and tormented; and to be privie to this Fact, they accused as principall the said Duke of Suffolke, with John Bishop of Salisbury, Sir James Fines, Lord Say, and others. Whereupon, the King plainly seeing, that neither glossing would save, nor dissimulation appease the continuall clamour of the importunate Commons against the Queenes Darling and his complices; to begin a short pacification of so long a broile, first, he sequestred the Lord Say, being Treasurer of England, from his Office, (who for the same offence was after committed to the Tower, and after that beheaded by Jack Cade, and the Kentish musinciers at the Standard in Cheape-side, who carried his Head about the streets of London fixed on a pole, &c.) And then by his owne authority, assembling all his Lords Spirituall and Temporall together, on the 17 day of March, in a Chamber over the cloysters at Westminster, hee arraigned and banished the said Duke for five yeeres, against the Lords and Commons consent, who would have capitally proceeded against him; meaning by this exile, to appease the present furious rage of the people, and that pacified, to recall him to his old estate, as the Queenes chiefe friend and counsellour. But fortune would not that hee should so escape; for when he was shipped in Suffolk, intending to be transported into France, he was encountered by a Ship of War, appertaining to the Duke of Exeter, of which the Constable of the Tower of London was Capitaine, who entering the Dukes Ship with small fight, brought him to Dover rode, and there on the side of a Cockboate cut off his head, as a Traytor, and there left his body and head upon the Sands. Such was the end of these two ill Councillors, only for advising this
weake

weake King himselfe thus dishonorably and Cowardly to surrender up these Townes, Forts, and Territories in France, to his Enemies, to purchase an unhappy peace, to the Kings and Kindomes irreparable great dammage, dishonor, weakning, and the Enemies extraordinary advantage, strengthening and encouragement.

To these I shall subjoyne one presient more, of a different nature, necessary to be knowne and considered of byall Captaines and Commanders, who defraud Souldiers of their wages, or the republiks, to enrich themselves.

* In the fifty one yeere of King Edward the third, Sir John Adinsterworth Knight ^{* Walsingham} was arraigned of Treason at the Guild-hall in London, before the Lord Major ^{Fabian, Holen-} and other the Kings Justices, for that he had received great summes of Money ^{sled, Grasian} of the King to have paid his Souldiers withall, and did it not, but kept the said ^{Sam. Speed,} summes of Money to his owne use, and then fled to the French King, whereupon ^{Daniel Martin,} he was conspired against his naturall Prince and Sovereigne Lord; of the which Treason hee was found guilty; and therefore had judgement, to be hanged, drawne, and quartered, which was executed accordingly. Indeede the Statutes of 18. Henry 6. c. 18. 7. H. 7. c. 1. 3. H. 8. c. 5. & 2. E. 6. c. 2. Prescribe a milder penalty, as ^{In 51. E. 3.} Fining, Imprisonment, Casting, forfeiting of all Goods and Chattels, to Captaines and Commanders, who shall abate their Souldiers Wages, or defraud them of their pay; or receive more pay for Souldiers then are actually in service under their Commandes (the Case some say of too many Captaines now in these times,) but anciently this was, and in rigor of Law, still is; no lesse then a capitall offence; which should make all Commanders honest, faithfull in this kinde, for feare of capitall Censures, if convicted of such an injurious fraudulent ^{The Act for} Crime. ^{Souldiers.}

I shall close up these ancient Lawes and Presidents, with some others of very late Edition.

His Excellency the Earle of Essex, Lord Generall of the Parliaments Forces, in his Lawes and Ordinances of War, established, for the better conduct of his Army, Printed at London September, 1642. Hath published this Law in Print concerning the yeelding up of any Towne, &c.

VVHOSOEVER yeeldeth up ANY TOVVNE, FORT, MAGAZINE VICTVALL, ARMES, AMVNITION, or that MENTIONETH, any such thing BVT UPON EXTREMITY, and that to the Governour, or in Councell **SHALL BE EXECVTED AS A TRAITOR.**

This Law is very punctuall, and penall; yea so plaine, that it needes no explanation; onely it may be doubted, what may be called extremity. For this I shall referre you, to the forecited Cases of VVeston, Gomeney, Cressingham, Elmham, and the Bishop of Norwich: and to that incomparable late Martiall Prince, the King of Sweden, Gustavus Adolphus, his Military Lawes, touching the Surrender of Townes, where hee reduceth extremity to these three heads.

First, if the Garrison be reduced to an utter extremity of all eatable things whatsoever (be it Skins or Hides;) so as they have no kinde of Foode whereby to subsist, but must necessarily perish by Famine, if they yeeld not.

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Secondly.

Secondly, If there be no hope at all left them in such a Case, of any succor and reliefe.

Thirdly, If without Parlying at that very instant, both the Forts, Men, and Armes must of necessity fall forthwith into the hands and power of the Besiegers.

If the Governour of a Towne or Fort, can prove by pregnant Testimonies, that hee was really reduced to all these extremities, then he is to be acquitted upon his triall; but if he faile in the saile proöfe of any of these three, then hee is to be condemned and executed as a Traytor, by this Kings Martiall Lawes. And whether all the Townes, Castles, Forts, late in the Parliaments possession, and since by the Governours thereof surrendered to the enemies hands by composition, without the Parliaments and his Excellencies previous consents or privities, have been first reduced to all, or any of these extremities before they were yeilded up, I referre to their most vigilant, just, and honourable Examination, whom it most concernes diligently to inquire thereinto, for their owne and the whole Kingdoms future security: and severely to punish all timorous and treacherous Governours, who out of Cowardize or Avarice, have betrayed their Trusts, and in them the Parliament and whole Kingdoms (as much as in them lay) as well as the particular Townes and Forts committed to their custodie.

* See Master John Vicars, his God in the mount. pag. 353. 10 363.

Upon this very Law and the Common Law of the Realme, * Master Tomkins and Master Challenger were lately arraigned, condemned, and executed by Martiall Law in London (and some others their confederates, arraigned and condemned, though not executed) in June and July last, for endeavouring to seize upon the Lord Mayor and Committee of the Militia for London, with some Members of the Parliament House, and to surprise the Tower of London, the Cities Bulwarks, Forts, Magazines, Gates, and other places of importance in the City, and to let in the Kings Forces to surprise the same: though they brought not this plot to such maturity as to put, or indeavour presently to put it into execution.

* See the examinations taken, and letters written by Colonell Fienes touching this particular, published in print.

Yea, by colour of the same Law, * Colonell Thomas Essex, late Governour of Bristol, was suddenly apprehended and sent up prisoner to London, by Colonell Nathaniel Fienes, who succeeded him in the Government of that City and the Castle thereof; (upon some jealousies and presumptions only, That the said Colonell Essex would have surrendered the said City and Castle into the Kings hands, had his Forces come there, and that before they were fully fortified) though he never actually attempted any such surrender. (The case of Sir John Hotham for Hull too.)

And not long after divers Citizens of Bristol were apprehended, imprisoned, and put to their severall fines and ransomes, and two of them (namely Teomans and Butcher) arraigned, condemned, and executed by martiall Law in the streets of Bristol by Colonell Fienes, onely for conspiring to deliver up the said City and Castle to Prince Rupert and the Kings Forces, when they came first before it, though they effected not their designe; and that before the City or Castle were completely fortified.

* Roger de Hoveden. Annal. pars. prior p. 461.

And yet (I know not by what ill fate, or accident) that Noble City and Castle (which even in William Rufus his reign was stiled, * *Castrum Fortissimum*, A MOST STRONG CASTLE) the Metropolis, Magazine, chiefe Mart and Bulwarke of the Western parts, of infinite importance to the Parliament and Kingdoms, (as this Colonell

Colonell himselfe attelleth in his printed **Relation*, after it was throngly tormented, victualled for three moneths siege or more, furnished with 55 piece of Cannon mounted in it, besides Murderers, and smaller pieces; manned with neere two thousand Foot souldiers, and 300 Horse, or more; stored with no lesse then 60 Barrels of Powder in the Castle onely when surrendered, (10 more then *Glocester* had when it began to be besieged) besides what was in the Forts and City, Match sufficient, 500 Cannon shot, or more, 50 great Granadoes (never one of them used,) and furnished with all manner of necessities for a long brave defence and leaguer: was in lesse then **ioure* daies siege, and the losse only of seven or eight Garrison souldiers, with the death wel-nigh of one thousand of the enemies, before any out Forts were taken, or the Towne or Castle-walls battered or assaulted; (upon a breach made only in the Line of Communication, and the entery of a small party of the enemies, not 200, (which might at first have bene all easily cut off, into the out-erirts of one corner of the City,) were most unexpectedly surrendered up to the enemy by the said Governour, with all the Cannon, Armes, Ammunition, Victuall, Magazines, Colours, and Prisoners therein, (without the privy or consent of the Parliament or his Excellency) to the great astonishment and discouragement of the Parliaments party, the inestimable detriment, irreparable losse of the whole Kingdome; the extraordinary strengthening, enriching, advantage of the enemies, and of the Irish and Welsh Rebels both by Land and Sea: The *Narration* and *Articles* of which surrender, which I need not particularly relate, with the consequences thereof, I shall here forbear to mention, since already published in print by Colonell *Fiennes* himselfe, in his *Relation* to the House of Commons, and *Letter* to his Excellency: In Master *Clement Walker* his *Answer* to that *Relation*, *The Tragedy of the Kings Armies fidelity since their entering into Bristol*. The *Relation of the siege of Gloucester*, and other printed *Mercuries*; the rather, because the more full examination of that unhappy action is referred by the Commons, upon the said Colonels motion, to a publique triall before a generall Councell of warre, in such a publique convenient place, (in London or Westminster, as is conceived, where the Commons may be present) as his Excellency shall thinke fittest, for such a generall cause of importance, to the whole Kingdome.

** How soone had the whole Kingdom been conquered had all other Cities and Forts, of lesse importance, bene yielded up in so short a space, through worse provided, lesse defensible.*

For other particulars formerly touched, his Excellency hath published these ensuing Lawes.

NO man shall abandon his Colours, or flie away in any Battaille, upon paine of death.

If a Pike-man throw away his Pike, or a Musketeer his Musket, or Bandalier, be or they shall be punished with death.

Whosoever in skirmish shall sling away his Powder out of his Bandaliers, that he may the sooner come off, shall be put to death.

A Regiment or Company of Horse or Foot, that chargeth the enemy, and retreats before they come to hand-strokes, shall answer it before a Councell of Warre; and if the fault be found in the Officers, they shall be banished the Campe: if in the Souldiers, then every tenth man shall be punished at discretion, and the rest serve for Pioners and Scavengers, till a worthy exploit take off that blot.

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The Dooms of Cowardize and Treachery.

No Captaine of a Troope shall present at the Muster any but reall Troopers, such as are bound by their pay to follow the Troope upon paine of cashiering without mercy. And if any Victualler, Feebooter, Enterloper or Souldier whatsoever, of any other Troope or Company shall present himselfe or his Horse in the Muster, to misleade the Muster-master, and to betray the service, the same shall be punished with death,

No Muster-master shall wittingly let any passe in the muster, but such as are really of the Troope or Company presented, upon paine of death, &c.

Any Officers that shall presume to defraud the Souldiers of their pay, or any part of it, shall be cashiered.

These few Presidents seriously considered, and Military Lawes duely executed, will be a ready way to make our Captaines and Souldiers couragious, our Officers incorrupt, our Governours trusty, our Townes and Forts secure against our enemies fiercest assaults, and finest underhand devices. I read in ** Henry Huntingdon*, that all the Souldiers of Prince Robert, upon the magnanimous Oration of the Consul of Chester, holding up their hands, with a terrible shout abjured flight, and setting presently on the enemy, routed them utterly, and tooke King Stephen prisoner. I hope these Pages may produce the like effect, and worke this generous resolution in all our Commanders, Governours, Souldiers; *Hic igitur vel vincendum, vel occumbendum, spes fuga nulla.* I shall close all with the speech of this Consul. *Necesse est ut ad probitatem confugiat, cui non potest esse aliud diffugium.*

* Historiarum.
l. 8. p. 390, 391.

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